

## **BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA**

<b>IN THE MATTER OF THE CONSIDERATION OF ) THE ASSESSMENT OF FINES AND OTHER ) PENALTIES AGAINST WESTERN TELECOM )</b>	<b>) ) )</b>	<b>ORDER APPROVING AGREEMENT REGARDING ORDERS TO SHOW CAUSE AGAINST WESTERN TELECOM AND TOUCHTONE COMMUNICATIONS TC99-107</b>
<b>IN THE MATTER OF THE CONSIDERATION OF ) THE ASSESSMENT OF FINES AND OTHER ) PENALTIES AGAINST TOUCHTONE ) COMMUNICATIONS )</b>	<b>) ) ) )</b>	

At its November 15, 1999, meeting, the Public Utilities Commission (Commission) unanimously voted to issue Orders to Show Cause against Western Telecom and Touchtone Communications as to why Western Telecom and Touchtone Communications (Western) should not be assessed civil fines or other penalties pursuant to SDCL 49-31-38 through 49-31-38.3 or assessed civil fines of not more than \$20,000 for each alleged violation of SDCL 49-31-89 to 49-31-97, inclusive and ARSD Chapter 20:10:34 pursuant to SDCL 49-31-94. The Commission also unanimously voted to order Western Telecom and Touchtone Communications to provide the Commission with a complete list of their current South Dakota subscribers, including the subscribers' billing addresses pursuant to SDCL 49-31-95.

The Orders to Show Cause were issued on November 22, 1999, and set the hearing for February 1, 2000. On January 25, 2000, the Commission received a Motion for Continuance from Commission Staff and a Motion for Continuance and Joinder in Staff's Motion for Continuance from Western Telecom. Staff and Western Telecom both requested an indefinite continuance. At its January 27, 2000, meeting, the Commission considered the motions. The Commission voted unanimously to grant the continuance. The Commission also requested an updated report within one month regarding the status of this case. By order dated June 6, 2000, the hearings were set for July 17, 2000. Commission Staff requested a continuance which was granted on July 11, 2000.

On December 11, 2000, an Agreement Regarding Orders to Show Cause Against Western Telecom and Touchtone Communications (the Agreement) was filed with the Commission, said Agreement representing a compromise and settlement of this matter between Western and Staff.

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 49-13 and 49-31, specifically 49-13-1 to 49-13-16, inclusive, 49-31-3, 49-31-7, 49-31-7.1, 49-31-7.2, 49-31-7.3, 49-31-7.4, 49-31-10, 49-31-11, 49-31-38 to 49-31-38.3, inclusive, 49-31-89 to 49-31-97, inclusive, and ARSD Chapter 20:10:34.

At its duly noticed December 12, 2000, meeting, the Commission considered whether to approve the Agreement. Western appeared through its local counsel of record, James Robbennolt. Commission Staff recommended its approval.

The Commission unanimously voted to approve the agreement. It is therefore

ORDERED, that the Commission approves the agreement; and it is

FURTHER ORDERED, that the terms and conditions of the Agreement shall be incorporated into this Order by reference and attached hereto, the same as if it was fully recited herein and shall as such be fully binding upon the parties to it; and it is

FURTHER ORDERED, that pursuant to the Agreement, the docket shall be closed.

Dated at Pierre, South Dakota, this 2nd day of January, 2001.

<p style="text-align: center;"><b>CERTIFICATE OF SERVICE</b></p> <p>The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.</p> <p>By: _____</p> <p>Date: _____</p> <p style="text-align: center;">(OFFICIAL SEAL)</p>
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BY ORDER OF THE COMMISSION:

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JAMES A. BURG, Chairman

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PAM NELSON, Commissioner

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LASKA SCHOENFELDER, Commissioner